UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,896	02/13/2001	Dan Kikinis	007287.00045	3324

22907   7590   07/23/2012
BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

EXAMINER
RAMAN, USHA

ART UNIT	PAPER NUMBER
2424	

MAIL DATE	DELIVERY MODE
07/23/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

_____

Ex parte DAN KIKINIS

_____

Appeal 2010-005257
Application 09/782,896
Technology Center 2400

_____

Before LANCE LEONARD BARRY, ST. JOHN COURTENAY III and
THU A. DANG, Administrative *Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Patent Examiner rejected claims 1, 2, 4-8, 10-14, and 16-22. The Appellant appeals therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

INVENTION

The following claim illustrates the invention on appeal:

19. A set-top box for generating 3-D enhanced advertising from 2-D video broadcasts, comprising:

a processor; and

a storage device, wherein the storage device is configured to store a library of 3-D objects;

wherein the processor is configured to:

receive the 2-D broadcast including a first advertisement having a 2-D image;

identify the 2-D image within the advertisement, wherein said 2-D image is identified based on its characteristics and exclusively at a viewer's equipment;

look-up a 3-D object matching the 2-D image in the library; and

use the matching 3-D object to generate an enhanced first advertisement, wherein the enhanced first advertisement has a 3-D highlighted rendering of the image produced by pushing the 3-D object into the original 2-D image, and further wherein said 3-D highlighted rendering of the image comprises a portion of the original 2-D image and said 3-D object.

REJECTION

Claims 1, 2, 4-8, 10-14, and 16-22 stand rejected under 35 U.S.C.
§ 103(a) as being unpatentable over U.S. Patent (Application Pub.) No.:
2005/0166224 A1 ("Ficco") and U.S. Patent No. 6,556,196 B1 ("Blanz").

DISCUSSION

Based on the dependencies of the claims, we will decide the appeal of
claims 1, 2, 4-8, 10-14, and 16-22 on the basis of independent claims 1, 7,
13, and 19.

The issue before us follows. Did the Examiner err in finding that
Blanz teaches looking up a 3-D object that matches an inputted 2-D image,
as required by independent claims 1, 7, 13, and 19?

The Examiner admits that "Ficco does not expressly state that the
enhancement object comprise 3-D objects." (Ans. 4.) The Examiner finds
that "Blanz discloses that a database comprising 3D objects (e.g. human
faces, col. 12, lines 19-21) from which a 3D object is supplied to the object
analyzer. This additionally reads on 'looking up a matching 3-D object in
a[n] image library, wherein the library comprises one or more 3-D objects'."
(Ans. 7.)

The question of obviousness is "based on underlying factual
determinations including . . . what th[e] prior art teaches explicitly and
inherently." *In re Zurko*, 258 F.3d 1379, 1383 (Fed. Cir. 2001) (citations
omitted).

Here, we agree with the Appellant's following argument.

> [T]he cited passages of Blanz do not teach or suggest looking-
> up a *matching* 3-D object. In fact, Blanz specifically describes
> the retrieval of an *average* face to an object analyzer. Col. 12,

3

ll. 24-28. Blanz states that the object analyzer then generates a 3-D model of an input image by modifying the retrieved average face model. Col. 12, ll. 33-36; *see also* Col. 8, ll. 4-11. Thus, as clearly stated by Blanz, the 3-D model that allegedly matches the 2-D input image is generated by the object analyzer, not retrieved or looked-up from a library. Stated differently, the retrieval from the 3-D object database in Blanz is merely of an ***average*** face, not one that matches the 2-D input image.

(Reply Br. 2.)

Therefore, we conclude that the Examiner erred in finding that Blanz teaches looking up a 3-D object that matches an inputted 2-D image, as required by independent claims 1, 7, 13, and 19.

DECISION

We reverse the rejection of claims 1, 7, 13, and 19 and of claims 2, 4-6, 8, 10-12, 14, 16-18, and 17-22, which depend therefrom.

REVERSED

Vsh

4